

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JOSEPH E. THURSTON, and ARLENE D.
THURSTON,

Plaintiffs,

v.

HSBC BANK USA, N.A., as indentured
trustee for FBR SECURITIZATION TRUST
2005-3, and CALLABLE MORTGAGE
BACKED NOTES 2005-3; WELLS FARGO
HOME MORTGAGE; AMERICAS
SERVICING CORPORATION; and
NATIONAL DEFAULT SERVICING
CORPORATION,

Defendants.

3:16-cv-0246-LRH-VPC

ORDER

Before the court is plaintiffs Joseph E. Thurston and Arlene D. Thurston's ("the Thurstons") first amendment to the petition for injunctive and declaratory relief which the court shall construe as a motion to file an amended complaint. ECF No. 9.

I. Facts and Procedural History

This is an wrongful foreclosure action brought by the Thurstons against defendants. On April 12, 2016, the Thurstons filed a complaint in state court against defendants alleging a single cause of action for a violation of Nevada Revised Statutes § 107.530. ECF No. 1, Exhibit 1, p. 22-29. In response, defendants removed this action to federal court on the basis of diversity

1 jurisdiction. ECF No. 1. Thereafter, the Thurstons filed the present motion to amend. ECF No. 9.

2 **II. Discussion**

3 A party may amend its pleadings by leave of court. FED. R. CIV. P. 15(a)(2). Leave of court
4 to amend should be freely given when justice so requires and when there is no undue delay, bad
5 faith, or dilatory motive on the part of the moving party. *See Wright v. Incline Village General Imp.*
6 *Dist.*, 597 F.Supp.2d 1191 (D. Nev. 2009); *DCD Programs, LTD v. Leighton*, 883 F.2d 183 (9th
7 Cir. 1987).


8 Here, the Thurstons request leave to amend their complaint to add an additional cause of
9 action against defendants for a violation of Nevada Revised Statutes § 107.086. *See* ECF No. 9.
10 Along with the motion, the Thurstons have also attached the proposed amended complaint in
11 accordance with Local Rule 15-1(a). *See* ECF No. 9, Exhibit 1. The court finds that there is no
12 undue delay, bad faith, or dilatory motive on behalf of the Thurstons in requesting leave to amend
13 their complaint. Further, the court finds that the matter is early in litigation and that the defendants
14 would not be prejudiced by allowing amendment. Accordingly, the court shall grant the Thurstons'
15 motion for leave to file an amended complaint.

16 IT IS THEREFORE ORDERED that plaintiffs' motion to amend (ECF No. 9) is
17 GRANTED.

18 IT IS FURTHER ORDERED that plaintiffs shall have ten (10) days from entry of this order
19 to file the proposed amended complaint attached as Exhibit 1 to their motion to amend (ECF No. 9,
20 Exhibit 1).

21 IT IS SO ORDERED.

22 DATED this 19th day of May, 2016.

23 
24 LARRY R. HICKS
25 UNITED STATES DISTRICT JUDGE
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